

1 U.S. DEPARTMENT OF THE INTERIOR
2 BUREAU OF LAND MANAGEMENT
3 CALIFORNIA DESERT DISTRICT
4 MONDAY, AUGUST 5, 2002
5 PASADENA, CALIFORNIA
6 AFTERNOON SESSION
7 3:01 p.m. - 3:37 p.m.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 MONDAY, AUGUST 5, 2002, PASADENA, CALIFORNIA

2 3:01 p.m - 3:37 p.m.

3

4 MR. JOSTES: My name is John Jostes and I am an
5 independent meeting facilitator, hired by the Bureau of
6 Land Management to run this series of scoping meetings.
7 I will be taking down some foot chart notes as folks
8 speak this afternoon. And we also have a court reporter
9 who will be taking down any comments that are made
10 verbatim. So we can capture those in their full context
11 as part of the record this afternoon.

12 This is the fourth of a series of five groups of
13 meetings. The first one was held in Ridgecrest last
14 Monday. We had an afternoon session and an evening
15 session. Then we went to Bakersfield for another
16 afternoon meeting session on Tuesday, and on Wednesday
17 of last week we went to Loan Pine and had a similar
18 afternoon meeting session. In addition to today's
19 meeting there's also a series of meetings tomorrow
20 afternoon and tomorrow evening in San Diego. So we hope
21 that provides a sufficient opportunity for folks to
22 provide their comments to the BLM on this particular
23 project.

24 Basically I don't know how many of you are familiar
25 with a scoping meeting, but the purpose of this meeting

1 is to provide an opportunity for folks to offer
2 comments, raise questions, frame issues, regarding the
3 environmental issues at focus that will be addressed in
4 an Environmental Statement on Surprise Canyon Access
5 Alternatives.

6 In addressing the environmental issues, the Bureau
7 of Land Management has focused on ten general topics,
8 natural resources, cultural resources, geology and
9 soils, water quality and water quantity, air quality and
10 noise concerns, recreation, land use, transportation,
11 aesthetics and visual impacts, social and economic
12 issues, and wild and scenic river issues. I'm looking
13 to you today to help clarify what those issues are for
14 you.

15 If you got additional concerns that you would like
16 to see addressed, now is the time to make those comments
17 so that those issues can be considered as a part of the
18 Draft Environmental Impact Statement and this is really
19 the first of three opportunities that the public and
20 agencies have to formally participate in the process of
21 scoping the Environmental Document in actually
22 commenting on the particular project and it's
23 alternatives.

24 After this week's worth of scoping meetings, a
25 Draft Environmental Statement will be developed and

1 circulated to the public for view. There will be a
2 series of hearings on that document and that will be an
3 opportunity for you to comment on its completeness, its
4 accuracy, its objectivity. And after those, that draft
5 review period has closed, the Bureau of Land Management
6 will then finalize the document, select a preferred
7 alternative, and then hold hearings to entertain
8 protests on their preferred alternative.

9 So those are the three opportunities you all have
10 to make your concerns and your views known so that
11 they're considered in the whole decision making process
12 on this particular issue. In addition to the actual
13 environmental issues, the document is an alternative
14 based document which means that it will look at a series
15 of alternatives. The first alternative that's always
16 required in an EIS is the no-action alternative. In
17 this case that would mean temporary access for vehicles
18 into Surprise Canyon until June 30th of 2004. That is
19 the date at which time the lawsuit settlement between
20 the BLM and the Center for Biological Diversity requires
21 that the route re-designation be completed.

22 There's also other alternatives in terms of limited
23 access, open access, closed access, and any other
24 alternatives that you might want to see covered in the
25 document. We'd like to hear from you today on that.

1 Whether it's full paved access, we've heard a whole
2 variety of different perspectives on the issues of
3 alternatives.

4 I have asked folks to fill out speaker slips. So
5 those of you who have some speaker slips, I'll be going
6 though these, calling folks to come up, you can come to
7 the podium and make your comments. Yvette is our court
8 reporter. She may ask you to stop and repeat something
9 if she doesn't hear it. But she's also tape recording
10 this so she gets it down. So try to speak slowly and
11 clearly so that she can understand exactly what you're
12 talking about.

13 The last issue, I think, if you stopped at the
14 table at the front, you found a comment form which is an
15 opportunity to provide comments. You can either use
16 this form, you can draft your own letters, however you
17 would like to do it. But the comment period for
18 submitting written comments during scoping process is
19 August 30th.

20 There's also another informational piece, which is
21 about a six- or seven-page document that talks about the
22 whole Surprise Canyon context. Those are out there.
23 The last thing is the meeting agenda. And on the back
24 of this agenda there's a series of meeting ground rules.
25 Those ground rules are intended to service the basic

1 boundaries for our discussion this afternoon.

2 With a group of this size, I would like to keep
3 things somewhat informal. But that also means that we
4 need to treat each other with respect and don't
5 interrupt folks. Clapping really doesn't contribute to
6 this process. We're here to listen to folks and the
7 comments they have.

8 Because no decisions are going to be made either
9 this afternoon or at in time during this scoping
10 process. I'm going to ask you to deal with your
11 differences as problems to be solved and not battles to
12 be won. Keep the discussion focused and civil. I
13 understand there's a lot of passion surrounding this
14 issue and I welcome you to share that. But at the same
15 time, I'm asking you to also be disciplined. The more
16 information you can share with us, the better
17 information we can pass on to the BLM and their
18 consultants who will be drafting the Environmental
19 Statement and predicting the impacts that go along with
20 each of these alternatives. Try not to take any cheap
21 shots. I know it's tempting once in a while when you
22 have people who have different viewpoints than your own,
23 but as I said, we can keep this informal as long as we
24 treat each other with respect.

25 So with that, I'm going to ask Rick Fisher to start

1 the meeting off and then we'll here from Pat Flanagan.

2 Okay. If you can just come on up to the
3 microphone. We've got a -- I had set out a three-minute
4 limit, but because we have so many people in the
5 audience, I thought we could give you a little bit more
6 flexibility than that. We may have to use that tonight
7 or this afternoon.

8 Okay. Rick.

9 MR. FISHER: Thank you.

10 THE COURT: If you can state your name for the
11 record, Rick.

12 MR. FISHER: My name is Rick Fisher, I'm an Officer
13 of the California Off-road Vehicle Association. I have
14 been involved in motorized recreation for the last 49
15 years and have been traveling Surprise Canyon probably
16 since the 70s. That pre-dates the first flash flood in
17 1984.

18 At that time you could drive up the canyon and not
19 with specially prepared vehicles, it wasn't that
20 difficult. The flash flood removed most of the gravel
21 and sand making it impassable for a number of years.
22 Since then, through winching, we've been able to get --
23 drive up the canyon. So traffic is very light because
24 only very specialized vehicles can proceed up the
25 canyon.

1 As is noted in the documentation here, another
2 flash flood in 2001 wiped out all indications of
3 off-road vehicles being in the canyon. So it's apparent
4 that this canyon is subject to these violent flash
5 floods which rearrange the material there and totally
6 overwhelm any other change that might be caused by
7 four-wheel drive or off-road vehicles, especially since
8 the canyon is -- most of the canyon is down the bedrock,
9 the most difficult passages are down bedrock which
10 cannot be changed to fit to vehicle travel.

11 So the impact of four-wheel drive vehicles is
12 negligent enough in my opinion. Now we're here because
13 this was process was investigated by the CBD lawsuit.
14 That lawsuit was based on the BLM failing to follow the
15 laws on endangered species. Why this canyon was closed
16 as part of the this lawsuit doesn't, to me, make any
17 sense. It's admitted that there are no endangered
18 species in the canyon.

19 However, the BLM has used the settlements as a hit
20 list of closures. The judge reprimanded the BLM for
21 using -- for following that and said they have to follow
22 the process and that's why we're here doing the process.
23 I hope to see the BLM follow the process and not just go
24 through the motions.

25 All the reasons given for closing the canyon are

1 untrue or bogus. We know there is no endangered
2 species. We know there's very little riparian effect
3 because most of the area that's there is hard rock, it
4 doesn't get changed. We know the flash floods destroy
5 and rearrange the growth every two years anyway.

6 As far as the traffic, it is so low that I have
7 heard estimates of less than 100 vehicles a year.
8 Pollutions caused by these vehicles has to be minimal.
9 The water that flows down to the canyon goes into a dry
10 lake. I don't believe that dry lake is a source of
11 water for any inhabitants. Possibly a well, but water
12 pollution doesn't seem be a valid reason either.

13 So what we're looking for in this process is some
14 real sights and some real reasons why this canyon has to
15 be closed. Everything has been presented so far as
16 being untrue or irrelevant and no scientist has been
17 presented to back up any of the claims. This canyon
18 should be -- the route itself should be open. It is a
19 corridor through wilderness. A corridor through
20 wilderness is defined by a route of travel. It is not
21 measured on the ground. And it cannot be said that the
22 route is not out of the corridor. If the route is out
23 of the corridor, it can be rerouted in those areas. But
24 I believe, by definition, it's impossible to be out of
25 the corridor. Because the route itself defines the

1 corridor. So that's another reason which we feel is
2 untrue.

3 So what we're looking for here is to see this
4 canyon opened as soon as possible. I certainly think
5 that it should be opened immediately. If that's not
6 possible, then valid science and accurate proof of
7 whatever damage claims are being made should be
8 preferred by the BLM.

9 MR. JOSTES: Thank you, Rick.

10 MS. FLANAGAN: Thank you. My name is Pat Flanagan.
11 I'm with the California Wilderness Coalition and I live
12 in 29 Palms, California.

13 Surprise Canyon is an extraordinary area that is in
14 or adjacent to wilderness area and the CBC designated
15 land and as -- washed out areas have been washed out
16 twice. I think that's not too surprising in any desert
17 canyon. And I think that canyons in the desert from my
18 experience and from the science that has been done is
19 that they adjust to those changes overtime. Those bare
20 boulders will fill in with sand and habitat will be
21 restored, but it's not even so much just the route of
22 travel that you're taking. It's the whole system and
23 it's important not to look at just that route but the
24 entire system.

25 I have lived in the desert for a number of years

1 and I have seen a number of wash outs and I have seen
2 them change over time. Adjusting to change overtime
3 that takes place, in this case was 1984 and 2001, is not
4 the same as adjusting to vehicles that go through and
5 extreme driving conditions overtime. Those, to me, are
6 destructive. Whatever sand might be starting to take
7 place into land in certain areas is certainly going to
8 be moved and washed out.

9 I certainly would agree with you that we need to
10 have scientists look and analyze the area. I would say
11 that if it's going to be open, it should be rebuilt the
12 way it was prior to the washout in 1984 so that
13 everybody can get up there, and if it's going to be washed
14 out again, then I guess that's going to be the problem.

15 But I think it either should be opened, or it
16 should be left to restore itself in the way that really
17 important habitat areas and eco system areas in the
18 desert should be left that way. They need to have
19 systems in place. It's, as I understand, systems they
20 hold a lot larger area than the route of travel you're
21 speaking of.

22 So basically I'm concerned that the whole system
23 would not be looked at as apposed to just a route of
24 travel and that we look at it technically overtime, as
25 well as space. We look at the time between 1984 and

1 2002 is a very short period of time in that canyons
2 life, and either it's allowed to recover or it's not.
3 And we understand that those systems are extremely rare
4 in the desert and they should be given every possibility
5 of recovery because they have links and connections down
6 into the tropics with the tropical birds that come and
7 would nest when there's trees available which there are
8 in other parts of that canyon which is also a part of
9 the system.

10 So I think I probably said what I want to say,
11 which is: Let's look at it as a system not as a route.

12 Thank you.

13 THE COURT: Thank you.

14 Jeff Kofoed followed by Garrison Norvell.

15 For the folks that just came in, if you would like
16 to make a statement, bring your slips up here and we'll
17 make sure to call on you.

18 MR. KOFOED: Hello, Jeff Kofoed, Burbank,
19 California.

20 I agree with most of what Mr. Fisher said. I
21 wanted to expand a little bit on the hydraulics of the
22 canyon. As he said, the route was pretty much passable
23 by sedan up until mid 80s in which a catastrophical
24 flash flood washed out hundreds of tons of gravel and
25 sand, the previous speaker said the sand will some how

1 accumulate overtime. That just does not follow any sort
2 of hydraulic principle whatsoever given the fact that
3 the bottom of the canyon is pure bedrock and has been
4 polished clean and smoothed over time due to numerous
5 catastrophical flash floods that have gone -- taken
6 place over time.

7 I oppose a no-action alternative. I think the
8 route should be left open in the present state that it
9 now exists.

10 That's all. Thanks for your time.

11 MR. JOSTES: Thank you.

12 Garrison, you're next.

13 MR. NORVELL: Hello, my name is Garrison Norvell.

14 I'm primarily interested in access. I own 109
15 acres north of Panamint City, and my partners own 120
16 acres south of the Panamint City area. I'm primarily
17 concerned about access after the '84 floods.

18 We are pretty much limited to what we could do. In
19 the process, I have been unable to get up to my property
20 except on foot and that's make it a little difficult if
21 anybody has ever traveled that area. I'm concerned with
22 -- it's a constitutional matter you might say because
23 I'm denied access to my own property, and if this is a
24 promotion of diversity, I should be able to examine or
25 at least possibly help develop my resources and values

1 in the area, which I am completely unable to do at this
2 particular time.

3 I am the tax payer at this particular point and I
4 am not being -- my rights and privileges are not being
5 fulfilled during this particular course. I would like
6 to admonish the BLM or whoever is responsible. I
7 realize now that we're speaking of an area which is not
8 necessarily where my property is, but it is the only
9 known access at this particular time, this corridor.

10 I was concerned because I know there are possibly
11 better ways to get there, maybe through Holt Canyon and
12 Woodpecker Canyon during times of rain, where there's
13 less chance for this to be a catastrophic washout in
14 those areas, and it might be easier on the whole area if
15 this was in a provision offered as an alternative route
16 and I don't know whether or not this is possible, as I
17 haven't examined that myself.

18 I would even volunteer the use of my DA Caterpillar
19 which is sitting on my property and I'm unable to get it
20 down or up or use it or get fuel to it because I'm just
21 one guy and I don't have a helicopter. So it's make
22 it's a little difficult. But I'm willing to volunteer
23 help in any way that I can to open this area up because
24 I feel that the actual use of the corridor by four-wheel
25 drive vehicles is minimal, at best, because of the

1 steepness of the area and the fact that the vehicle
2 itself has to travel so slow. I mean, it doesn't go
3 that fast. Now, I have never been up there that fast.
4 I don't know about you.

5 But it's a problem of understanding for me because
6 I have been denied this access all this time. And also,
7 on the suit by the Bio Diversity against the BLM, I was
8 not informed that this was even taking place. Because
9 of this, and these restrictions now, I was unable to
10 even make comments during the suit, since I was being
11 affected.

12 And so due to this little problem, I would
13 admonish, again, the BLM for not making these
14 opportunities for me to speak during the time that this
15 suit was going on in San Francisco. And why out in
16 San Francisco? I know not, because it is somewhat
17 distant from the actual case, and I would prefer that it
18 be a little closer to us.

19 I want to be -- or make everybody aware of the fact
20 that if worse comes to worse, every Jeep club in
21 Southern California will an opportunity to buy property
22 at Panamint City. If they so desire they need to
23 contact me.

24 MR. JOSTES: Thank you, Garrison.

25 Next speaker is Eric Anderson.

1 MR. ANDERSON: Can you just hold my card?

2 MR. JOSTES: Okay. I'll keep this card. Is there

3 anybody else who would like to comment this afternoon?

4 Yes, sir. Come on up.

5 MR. SCHICK: Sorry to be late.

6 MR. JOSTES: That's all right. Take the microphone

7 and state your name.

8 MR. SCHICK: My name is Bud Schick. I'm a member

9 of the California Off-road Vehicle Association.

10 I have had the pleasure of visiting Surprise Canyon

11 and it is a beautiful area to go to, off roading. I see

12 no viable reason whatsoever for that place to be closed.

13 It's not a wild and scenic river. There are -- as far

14 as I know, no endangered species or weeds or critters in

15 the area.

16 Off roading is a family recreation and it is a big,

17 big donator or money bringer -- money brought into the

18 State of California. In the 1992 research by Berkley,

19 there was \$3 Billion which undoubtedly has increased.

20 The State of California and the BLM gets their share of

21 the money from our Green Sticker Fund and our other

22 Highway Tax Fund. So I really -- I can't understand why

23 the Bureau of Land Closures decided that this has to be

24 closed along with all the other areas.

25 All right. I thank you, very much.

1 MR. JOSTES: Bud, if I could get you to fill out a
2 yellow card before you leave. That way we can get your
3 name on the record.

4 Would anyone else like to speak this afternoon?

5 Yes, sir. Great. Go ahead.

6 MR. STEVENS: Good afternoon. My name is
7 Ed Stevens. I'd like to speak on Surprise Canyon.

8 You folks had a number of questions in your
9 literature that you sent me that's different from here.

10 Do you want me to speak specifically to the three
11 items that you talked about?

12 MR. JOSTES: Whatever is your pleasure, as far as
13 we're concerned.

14 MR. STEVENS: Well, let's talk a little bit about
15 Surprise Canyon road, which this all focuses around.

16 And the first thing I want to bring up, and it's
17 probably going to be reheard again and again tonight is
18 that Surprise Canyon Road is a road. It's been
19 recognized as a road for over 125 years. I want to
20 highlight that this is not just a dirt path that people
21 have been traveling over.

22 In 1874 Remi Maydo (phonetic) actually did
23 mechanical road work in Surprise Canyon and he was paid
24 and contracted to do so. Since then, Inyo County and
25 the State of California have recognized Surprise Canyon

1 as a road. This recognition pre-dates the existence of
2 the BLM and it pre-dates the existence of the National
3 Park Service.

4 The criteria for establishing a road and what it
5 takes to establish a road is the Mining Act of 1872. It
6 was passed one year before W. G. Henderson walked up
7 Surprise Canyon as one of the first pioneers to enter
8 the area that is now considered Panamint City.

9 Now, we all have to realize that a road has an
10 impact on the habitat. It's not different for Surprise
11 Canyon Road than it is for Highway 15 or Wild Rose Road
12 or Highway 210 right out here in front of us. We all
13 traveled that probably to get here. All environmental
14 issues regarding Surprise Canyon road must recognize
15 that it is a road and habitat impacts on a road must be
16 acceptable.

17 And when you guys ask if there's one environmental
18 issue that stands out greater than any others, that is:
19 It is a road, and it must be considered in any action
20 taken regarding Surprise Canyon Road.

21 Now, you're going to probably hear a lot about
22 water quality. In my experience, and in my families
23 experience, and we've been in an out of Surprise Canyon,
24 using that road for over 80 years. We've never seen a
25 water quality problem. That's whether it's been live

1 stock being driven up and down that road, sheep herders
2 using that road seasonally or motor vehicles using that
3 road. The one thing we have noticed in the last 40
4 years is the density of traffic on that road has reduced
5 significantly.

6 The last question that you guys asked in the
7 published literature is: What is the value of motorized
8 access of Surprise Canyon Road? Is it the drive? Is
9 the it experience? Is the destination?

10 Well, I counter, it's all of these things. It
11 leads us to a better question a larger question. What
12 is unique to Surprise Canyon road? What makes it so
13 important compared to the other roads in California and
14 the other roads in the area? Well, lets compare it to
15 similar roads in the neighborhood. Pleasant Canyon
16 Road, it's two or three canyons south of Surprise Canyon
17 Road. Well, Surprise Canyon is neither pleasant or
18 easy. It is a unique, rustic, pioneer experience to
19 travel up and down Surprise Canyon Road. Let's go a few
20 more canyons down. Middle Park and South Park Roads,
21 the destination of Middle Park and South Park is a
22 park-like atmosphere. It's a nice wide canyon. It's
23 wooded. Well, Surprise Canyon has none of those
24 characteristics. At least none of significance. It's
25 neither park-like and I have never heard anybody sit

1 down and tell me it was easy and pleasant.

2 Surprise Canyon Road is it the only road in the
3 Panamints that has the true character and experience by
4 pioneers and miners. Motorized access is the best
5 avenue to let our children experience that rustic
6 atmosphere. Where else can our children find a similar
7 pioneer experience? I contend roads lead to history,
8 and Surprise Canyon Road is no stranger to unique
9 history. One of the major values of this road is the
10 history. The first wheeled vehicle to survive the road
11 was a butcher's cart. Where else in prominent history
12 does a butcher's cart rank so highly in the criteria
13 that it established a road.

14 Where else can our children travel up a road in a
15 wheeled vehicle that Wells Fargo wouldn't even accept a
16 contract to travel and deliver? Wells Fargo went to
17 Tombstone. Wells Fargo even went to San Francisco and
18 Tucson, for God sake, but they wouldn't to Surprise
19 Canyon Road and deliver in and out of Panamint City.

20 Now, most people know about the silver history of
21 Panamint. It spanned four to six years. What they
22 don't know is that Panamint, and in the area around
23 Panamint has been mined significantly since then. In
24 World War II, the major mineral removed from Panamint
25 was tungsten. What's so great about tungsten? When we

1 were in the middle of a war and we needed steel to keep
2 our people alive in a war -- well, somewhere else in the
3 desert conservation area there was a iron mine owned by
4 Kaiser Steel and they mined a lot of iron out of it. The
5 problem was that it was high in sulfur content. What do
6 you do to take high sulfur content iron and make it
7 worthwhile? You add tungsten. Some of that tungsten
8 came from Surprise Canyon. And a lot of trucks went up
9 and down Surprise Canyon during that period.

10 In addition, during those periods, those trucks
11 that ran up and down Surprise Canyon enjoyed Federal
12 Funds to maintain that road. So now we know the County
13 of Inyo recognized the road, the State of California
14 recognized, the road, and the Federal Government
15 recognized the road. They even funded it. All three
16 entities having jurisdiction over the road have actually
17 applied funds to Surprise Canyon Road.

18 MR. JOSTES: Which were those entities again?

19 MR. STEVENS: Excuse me?

20 MR. JOSTES: Which ones? You said three entities.

21 MR. STEVENS: The Federal Government, the State of
22 California, and Inyo County.

23 Now, the Surprise Canyon Roads has never been an
24 easy road and I believe very few people want it to
25 become easier than it is now. We value the rustic

1 experience that it provides. What we want to have is
2 motorized and wheeled access to remain legal and open on
3 Surprise Canyon Road.

4 I think that will do it, unless you have more time.
5 I don't know how much time I have and I could actually
6 go on for hours because it's a favorite area.

7 MR. JOSTES: All right. Thank you for your
8 insights.

9 MR. STEVENS: Okay.

10 MR. JOSTES: Any other who folks would like to make
11 a comment this afternoon? Okay. Yes. Go ahead. Come
12 on up. Round two.

13 MR. FISHER: Thank you. Rick Fisher again. Just
14 to expand on some of the things that were brought up.

15 This certainly is a very well recognized road. As
16 has just been discussed, it may be in a poor state of
17 it's repair, but it surely is still a road. And the
18 most recognition of Surprise Canyon as a road is that
19 when the wilderness was created, Congress mandated that
20 that road be left open and barring any really serious
21 and real factual reasons why that road must be closed,
22 Congress representing the people of this country, want
23 that road open.

24 Thank you.

25 MR. JOSTES: Thank you.

1 Okay. I have heard a lot of good comments today.
2 Unless there are other comments, we're going to wrap
3 things up this afternoon and come back in this evening.
4 I believe we're starting at 7:00 o'clock sharp. I
5 understand there's going to be some good attendance. So
6 we look for to getting some more comments down, both in
7 writing and verbatim.

8 So thank you all for coming this afternoon and
9 making your perspectives known.

10 (This session was concluded at 3:37 p.m.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25